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25 June 1956

MEMORANDUM FOR: General Counsel

SUBJECT: Delegation of Authority to Terminate Employment
Under Executive Order 10450

1. Executive Order 10450 is issued primarily under the authority
of the Act of 26 August 1950 (Public Law 733, 81st Congress).

2. Senate Report Number 2158, 25 July 1950 (cited at 1950 U.S.
Code Cong. 3278) provides (at page 3280):

"It is the intention that the head of the department can
delegate his authority to suspend an employee, but he cannot
delegate his power to terminate the services of an employee
who has been suspended under this legislation."

3. As the attachment demonstrates, the Executive Order provides
for the delegation of all authorities lodged in the agency head except
that of final termination.

4. Despite the foregoing clear language, investigation has disclosed
the following:

a. Department of the Navy (Mr. Logsdon, x 53694): Final
termination decision may be made by anyone at the secretarial
level (Secretary, Under Secretary or the several Assistant
Secretaries). This is apparently on the theory that the term
"agency head" includes all presidential appointees. This would
appear to be a somewhat novel theory.

b. Department of the Army (Mr. C. Donald Garrett, x 55817):
Final termination decision retained in the Secretary, but in
actual fact, except for the occasional sticky case which the
Secretary himself might wish to be informed about, the signature
on the final decision is that of Mr. Martin, a GS-17 "Chief Clerk"
to the Secretary, who signs not on his own authority but "for the
Secretary."

c. Department of the Air Force (Mr. Julien, x 76030/53376):
The authority here seems to be vested in the Assistant Secretary
for Management, but the signature on the final decision is that
of his Deputy for Administration, who signs a statement to the

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effect that the Assistant Secretary has made a decision. Air stated that this is not considered a delegation since the Assistant Secretary within his area of responsibility has "concurrent jurisdiction" with the Secretary; this is alleged to be based on the statute creating the position.

d. Department of Defense (Mr. Ray Loughton, x 77171): States that they probably haven't had more than one case, because they have less personnel than in the subordinate departments, but that if a case came up the Secretary himself would make the final decision.

e. Conversation with Colonel Rubinstein (x 78366), who is responsible at the Defense level for coordinating the security programs of the subordinate departments indicates that he has a somewhat different view from that expressed by the departments themselves. He states that whatever may happen in the way of paper shuffling, he deals with the Assistant Secretaries and that as he understands it they handle these cases "all the way through." I asked him if he considered that they were acting in their own authority or in the name of the Secretaries and he said that he believed they were acting for the Secretaries.

5. From the foregoing, I would conclude that either the Director or the Deputy Director of Central Intelligence, because of the _alter ego_ character of the Deputy, could make the final decision to terminate. In addition, the sanctioned practice indicates that another official or officials of the Agency (e.g., Director of Security, General Counsel, or the Director's Administrative Assistant, Mr. [ ]) could be authorized to sign the operative document "For the Director." However, any attempt at express delegation (so that a designee had the authority to make a determination in his own name) seems improper under both the statute and the Executive Order. If "delegation" (in any sense) below the level of the Deputy Director of Central Intelligence is contemplated, I recommend we secure the formal or informal opinion of the Attorney General.

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Assistant General Counsel

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